

## PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

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AUTHORITY: 12 U.S.C. 1757(7), 1757(8), 1757(15).

SOURCE: 62 FR 33001, June 18, 1997, unless otherwise noted.

### § 703.10 What does this part 703 cover?

This part 703 interprets several of the provisions of Sections 107(7), 107(8), and 107(15) (B) and (C) of the Federal Credit Union Act ("Act"), 12 U.S.C. 1757(7), 1757(8), 1757(15) (B) and (C), which list those securities, deposits, and other obligations in which a federal credit union ("you") may invest.

### § 703.20 What does this part 703 not cover?

This part 703 does not apply to:

- (a) Investment in loans to members and related activities, which is governed by §§ 701.21, 701.22, 701.23, and part 723 of this chapter;
- (b) The purchase of real estate-secured loans pursuant to Section

107(15)(A) of the Act, which is governed by § 701.23 of this chapter;

(c) Investment in credit union service organizations, which is governed by part 712 of this chapter;

(d) Investment in fixed assets, which is governed by § 701.36 of this chapter;

(e) Investment by corporate credit unions, which is governed by part 704 of this chapter; or

(f) Investment activity by state-chartered credit unions, except as provided in § 741.3(a)(3) of this chapter.

[62 FR 33001, June 18, 1997, as amended at 64 FR 33187, June 22, 1999; 64 FR 57365, Oct. 25, 1999]

### § 703.30 What are the responsibilities of my (a federal credit union's) board of directors?

Your (a federal credit union's) board of directors must establish a written investment policy that is consistent with the Act, this part, and other applicable laws and regulations. The investment policy may be part of a broader, asset-liability management policy. Your board must review the policy at least annually. The policy must address the following items:

(a) The purposes and objectives of your investment activities.

(b) The characteristics of the investments you may make. The characteristics of an investment are such things as its issuer, maturity, index, cap, floor, coupon rate, coupon formula, call provision, average life, and interest rate risk.

(c) How you will manage your interest rate risk, including the amount of risk you can take with your investments in relation to your net capital and earnings.

(d) How you will manage your liquidity risk.

(e) How you will manage your credit risk. The policy must list specific institutions, issuers, and counterparties you may use, or criteria for their selection, and limits on the amounts you may invest with each. Counterparty means the party on the other side of a transaction.

(f) How you will manage your concentration risk, which can result from single or related issuers, lack of geographic distribution, holdings of obligations with similar characteristics,

such as maturities and indexes, holdings of bonds having the same trustee, and holdings of securitized loans having the same originator, packager, or guarantor.

(g) Who of your officials or employees has investment authority and the extent of that authority. The individuals given investment authority must be professionally qualified by education and/or experience to exercise that authority in a prudent manner and to fully comprehend and assess the risk characteristics of investments and investment transactions under that authority. Only your officials and employees may be voting members of any investment-related committee.

(h) If you use third-party entities to purchase or sell investments ("broker-dealers"), the specific broker-dealers you may use. You must maintain the documentation the board used to approve a broker-dealer as long as the broker-dealer is approved and until the documentation has been audited in accordance with §701.12 of this chapter and examined by NCUA.

(i) If you use a third-party entity to safekeep your investments, the specific entities you may use.

(j) How you will handle an investment that either is outside board policy after purchase or fails a requirement of this part.

(k) If you engage in trading activities, how you will conduct those activities. The policy should address the following:

- (1) The persons who have purchase and sale authority;
- (2) Trading account size limitations;
- (3) Allocation of cash flow to trading accounts;
- (4) Stop loss or sale provisions;
- (5) Dollar size limitations of specific types, quantity and maturity to be purchased;
- (6) Limits on the length of time an investment may be inventoried in the trading account; and
- (7) Internal controls, including appropriate segregation of duties.

[62 FR 33001, June 18, 1997, as amended at 63 FR 24104, May 1, 1998]

**§ 703.40 What general practices and procedures must I follow in conducting investment transactions?**

(a) You (a federal credit union) must classify a security as hold-to-maturity, available-for-sale, or trading, in accordance with generally accepted accounting principles and consistent with your documented intent and ability regarding the security.

(b) Except as provided in paragraph (c) of this section, you must retain discretionary control over the purchase and sale of investments. NCUA does not consider you to have delegated discretionary control when you are required to authorize a recommended purchase or sale transaction prior to its execution and you, in practice, review such recommendations and authorize such transactions.

(c)(1) You may delegate discretionary control over the purchase and sale of investments, within established parameters, to a person other than your official or employee, provided that the person is an investment adviser registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940 (15 U.S.C. 80b).

(2) In determining whether to transact business with an investment adviser, you must analyze his or her background and information available from state or federal securities regulators, including any enforcement actions against the adviser or associated personnel.

(3) You may not compensate an investment adviser with discretionary control over the purchase and sale of investments on a per transaction basis or based on capital gains, capital appreciation, net income, performance relative to an index, or any other incentive basis.

(4) When you have delegated discretionary control over the purchase and sale of investments to a person other than your official or employee, you do not direct the holdings under that person's control. Therefore, you must classify those holdings as either available-for-sale or trading.

(5) You must obtain a report from your investment adviser, at least monthly, that details your investments